

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

APRIL S. WALDEN,

Case No. 3:21-cv-1344-JR

Plaintiff,

ORDER

v.

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON PORTLAND
DIVISION,

Defendant.

RUSSO, Magistrate Judge:

Pro se plaintiff, April Walden, brings this action “against the United States District Court, District of Oregon for failing to conduct an Internal (Complete) Investigation into the Abuse and Retaliation I experienced at Providence Health & Services in 2018.” Complaint (ECF 2) at p. 1. This Court liberally construed the complaint as alleging a claim for violation of plaintiff’s due process rights related to plaintiff’s companion case, Walden v. Providence Health and Services, 3:19-cv-1717-AC.

In the Findings and Recommendation, this Court noted the insurmountable obstacles preventing this case from proceeding regardless of the theory of the case or cause of action. F&R (ECF 4). Plaintiff did not file objections to the Findings and Recommendation and the District Court adopted the Recommendation and dismissed the case with prejudice.

The Court then dismissed plaintiff's 3:19-cv-1717-AC case and on December 7, 2020, entered a final judgment. Plaintiff did not file an appeal. On September 13, 2021, plaintiff initiated this action. The Court entered a judgment of dismissal in this case on October 12, 2021. On December 2, 2021, plaintiff then filed a notice of appeal in the 19-cv-1717-AC case which appears to be untimely.

Also, on December 2, 2021, plaintiff filed a timely notice of appeal in the case at bar. The Ninth Circuit referred the case back to this Court for the limited purpose of determining whether plaintiff's in forma pauperis status (IFP) should continue.

This Court determines that plaintiff's IFP status should not continue. There are no valid grounds for appeal given that no matter how the complaint is construed, the claims are frivolous. Based on the record before it, the Court finds and certifies that any appeal taken from its Order and Judgment of dismissal is not taken in good faith. See 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3)(A); Hooker v. American Airlines, 302 F.3d 1091, 1092 (9th Cir. 2002) (noting that an appeal is taken in "good faith" if it seeks review of "non-frivolous" issues); O'Loughlin v. Doe, 920 F.2d 614, 617 (9th Cir. 1990) ("[A]n issue is frivolous if it has 'no arguable basis in fact or law.'") (citation omitted)). Accordingly, plaintiff's IFP status is revoked.

CONCLUSION

The Clerk of the Court shall notify plaintiff and the Ninth Circuit of this Order. See Fed. R. App. P. 24(a)(4)(B). Plaintiff may file a motion for leave to proceed IFP on appeal in the Ninth

Circuit within thirty (30) days after service of notice of this Order. See Fed. R. App. P. 24(a)(5). Any such motion “must include a copy of the affidavit filed in the district court and the district court's statement of reasons for its action.” Id.

DATED this 14th day of December, 2021.

/s/ Jolie A. Russo
Jolie A. Russo
United States Magistrate Judge